

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TRAVELL C. HOLMES,

Plaintiff,

v.

DAVID BAUGHMAN, et al.,

Defendants.

Case No. 2:20-cv-01496 DAD DB P

ORDER GRANTING DEFENDANTS'
REQUEST TO MODIFY THE
SCHEDULING ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action under 42 U.S.C. §1983. Plaintiff alleges defendants were deliberately indifferent to his medical needs when they required him to use stairs despite having a “no stairs chrono” and he fell injuring his knee. On February 8, 2024, this court set a 60-day deadline for dispositive motions. (ECF No. 95.) This court later granted defendants’ request for an extension of that deadline. (ECF No. 97.) On June 4, 2024, defendants filed a timely motion for summary judgment. (ECF No. 99.) In that motion, defendants argue that this action is untimely and plaintiff is not entitled to equitable tolling of the statute of limitations.

Defendants also move for an order which would permit them to file a second, merits-based motion for summary judgment if the court denies the current motion. This court agrees with

defendants that litigating the statute of limitations issue first, and addressing the merits later if necessary, is the most efficient and cost-effective way to proceed.

Accordingly, and good cause appearing, IT IS HEREBY ORDERED that:

1. Defendants' motion to modify the scheduling order (ECF No. 98) is granted;
2. The June 4, 2024 deadline for filing dispositive merits-based motions is lifted. If the court denies defendants' pending summary judgment motion, defendants may file a merits-based summary judgment motion within 60 days of the final decision on their pending summary judgment motion.

Dated: June 5, 2024


DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

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